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JUN 03 2011

OFFICE OF PETITIONS

In re Application
Binh T. Nguyen et al.
Application No. 10/642,937
Filed: August 18, 2003
Attorney Docket No. **3718611-06135**

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)" filed on May 19, 2011. Applicants request that the initial determination of Patent Term Adjustment for the above-identified patent be corrected from 1116 days to 675 days.

The application for patent term adjustment is GRANTED.

The Office has updated the PALM and PAIR screen to reflect that the Patent Term Adjustment (PTA) at the time of the mailing of the Notice of Allowance is 675 days. A copy of the updated PALM screen, showing the revised determination, is enclosed.

On April 1, 2011, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) in the above-identified application, stating that the patent term adjustment to date was 1116 days (1260 days of Office delay and 144 days of applicant delay). This application for patent term adjustment was timely filed prior to payment of the issue fee.

Applicants assert that under 35 USC 132, the first action mailed by the USPTO was the restriction requirement mailed January 9, 2007 and thus, the period from fourteen months after the date the application was filed until the date the restriction requirement was mailed, was a period of 813 days Office delay pursuant to 37 CFR 1.702(a)(1), and not 1254 days for the mailing of the non-Final Office Action on March 25, 2008.

Applicants' argument is persuasive. The restriction requirement mailed January 9, 2007 is the first Office action in the application. As such, the 14 month period for Office delay started on October 18, 2004 and ended on January 9, 2007, and the period of adjustment for Office delay under 37 CFR 1.702(a)(1) is 813 days. The period of adjustment for Office delay of 1254 days will be removed and a period of 813 days will be entered.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is SIX HUNDRED SEVENTY-FIVE (675) days.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office of Data Management has been advised of this decision. The application is thereby forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and if applicable, for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

/Patricia Faison-Ball/
Senior Petitions Attorney
Office of Petitions

Attachment: Copy of update PALM calculation



**Patent
Term
Adjustments**

[PTA/PTE Information](#)

[Patent Term Adjustment](#)

[Patent Term Extension](#)

Application Number*: **10642937**

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[Explanation of PTA Calculation](#)

[Explanation of PTE Calculation](#)

PTA Calculations for Application: 10642937

Application Filing Date	08/18/2003	Overlapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays	1260
A Delays	1260	PTO Manual Adjustment	-441
B Delays	0	Applicant Delay (APPL)	144
C Delays	0	Total PTA (days)	675

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
168	06/01/2011		P028	Adjustment of PTA Calculation by PTO	813	0	
167	06/01/2011		P028	Adjustment of PTA Calculation by PTO	1254	0	
154	04/01/2011		MN/=.	Mail Notice of Allowance	0	0	
153	03/29/2011		N/=.	Notice of Allowance Data Verification Completed	0	0	
152	03/29/2011		IREV	Issue Revision Completed	0	0	
151	03/29/2011		DVER	Document Verification	0	0	
150	03/29/2011		EX.A	Examiner's Amendment Communication	0	0	
148	03/28/2011		CNTA	Allowability Notice	0	0	
149	03/25/2011		EXIN	Examiner Interview Summary Record (PTOL - 413)	0	0	
143	03/04/2011		FWDX	Date Forwarded to Examiner	0	0	
140	03/04/2011		ABN9	Disposal for a RCE / CPA / R129	0	0	
142	03/02/2011		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE	0	0	
141	03/02/2011		RCEX	Request for Continued Examination (RCE)	0	0	
139	03/02/2011		BRCE	Workflow - Request for RCE - Begin	0	0	
138	02/23/2011		EML_NTR	Email Notification	0	0	
137	02/23/2011		MEXIN	Mail Examiner Interview Summary (PTOL - 413)	0	0	
136	02/15/2011		EXIN	Examiner Interview Summary Record (PTOL - 413)	0	0	
135	01/21/2011		ELC_RVW	Electronic Review	0	0	
134	01/21/2011		EML_NTF	Email Notification	0	0	
133	01/21/2011		MCTFR	Mail Final Rejection (PTOL - 326)	0	0	
132	01/18/2011		CTFR	Final Rejection	0	0	
131	11/02/2010		EML_NTR	Email Notification	0	0	
130	11/02/2010		PA..	Change in Power of Attorney (May Include Associate POA)	0	0	
129	10/29/2010		C.AD	Correspondence Address Change	0	0	
128	10/29/2010		FWDX	Date Forwarded to Examiner	0	0	
127	10/25/2010	09/25/2010	A...	Response after Non-Final Action	30	122	
126	10/25/2010		XT/G	Request for Extension of Time - Granted	0	0	
125	10/24/2010		DOCK	Case Docketed to Examiner in GAU	0	0	
124	06/25/2010		ELC_RVW	Electronic Review	0	0	
123	06/25/2010		EML_NTF	Email Notification	0	0	
122	06/25/2010		MCTNF	Mail Non-Final Rejection	0	0	
121	06/21/2010		CTNF	Non-Final Rejection	0	0	
119	06/15/2010		FWDX	Date Forwarded to Examiner	0	0	
116	06/15/2010		ABN9	Disposal for a RCE / CPA / R129	0	0	
120	06/10/2010		M844	Information Disclosure Statement (IDS) Filed	0	0	
118	06/10/2010		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE	0	0	
117	06/10/2010		RCEX	Request for Continued Examination (RCE)	0	0	
115	06/10/2010		BRCE	Workflow - Request for RCE - Begin	0	0	
78	06/10/2010		WIDS	Information Disclosure Statement (IDS) Filed	0	0	
114	03/10/2010		ELC_RVW	Electronic Review	0	0	
113	03/10/2010		EML_NTF	Email Notification	0	0	
112	03/10/2010	03/04/2010	MCTFR	Mail Final Rejection (PTOL - 326)	6	107	
111	03/01/2010		CTFR	Final Rejection	0	0	
108	12/24/2009		FWDX	Date Forwarded to Examiner	0	0	
110	11/04/2009		IDSC	Information Disclosure Statement considered	0	0	
109	11/04/2009	11/04/2009	M844	Information Disclosure Statement (IDS) Filed	0	107	
107	11/04/2009		A...	Response after Non-Final Action	0	0	
106	11/04/2009		WIDS	Information Disclosure Statement (IDS) Filed	0	0	
105	08/04/2009		MCTNF	Mail Non-Final Rejection	0	0	
104	08/03/2009		CTNF	Non-Final Rejection	0	0	
99	07/20/2009		FWDX	Date Forwarded to Examiner	0	0	
97	07/20/2009		FWDX	Date Forwarded to Examiner	0	0	
95	07/20/2009		ABN9	Disposal for a RCE / CPA / R129	0	0	

103	07/16/2009	IDSC	Information Disclosure Statement considered	0
101	07/16/2009	RCAP	Reference capture on IDS	0
100	07/16/2009	07/16/2009 M844	Information Disclosure Statement (IDS) Filed	96
98	07/16/2009	AMSB	Amendment Submitted/Entered with Filing of CPA/RCE	0
96	07/16/2009	05/20/2009 RCEX	Request for Continued Examination (RCE)	57
94	07/16/2009	XT/G	Request for Extension of Time - Granted	85
93	07/16/2009	WIDS	Information Disclosure Statement (IDS) Filed	0
92	07/16/2009	BRCE	Workflow - Request for RCE - Begin	0
91	06/18/2009	MCTAV	Mail Advisory Action (PTOL - 303)	0
90	06/17/2009	CTAV	Advisory Action (PTOL-303)	0
88	06/07/2009	FWDX	Date Forwarded to Examiner	0
102	05/20/2009	IDSC	Information Disclosure Statement considered	0
89	05/20/2009	M844	Information Disclosure Statement (IDS) Filed	0
87	05/20/2009	A.NE	Amendment after Final Rejection	0
86	05/20/2009	WIDS	Information Disclosure Statement (IDS) Filed	0
85	02/20/2009	MCTFR	Mail Final Rejection (PTOL - 326)	0
84	02/17/2009	CTFR	Final Rejection	0
83	12/11/2008	IDSC	Information Disclosure Statement considered	0
82	12/11/2008	RCAP	Reference capture on IDS	0
81	12/11/2008	11/13/2008 EI0S.	Electronic Information Disclosure Statement	28
80	12/11/2008	IDSC	Information Disclosure Statement considered	76
79	12/11/2008	WIDS	Information Disclosure Statement (IDS) Filed	0
77	11/14/2008	FWDX	Date Forwarded to Examiner	0
76	11/13/2008	ELC.	Response to Election / Restriction Filed	0
75	10/14/2008	MCTRS	Mail Restriction Requirement	0
74	10/10/2008	CTRS	Restriction/Election Requirement	0
73	07/30/2008	FWDX	Date Forwarded to Examiner	0
71	07/10/2008	C.ADB	Correspondence Address Change	0
72	06/25/2008	A...	Response after Non-Final Action	0
70	03/25/2008	10/18/2004 MCTNF	Mail Non-Final Rejection	1254
69	03/17/2008	CTNF	Non-Final Rejection	0.5
65	01/09/2008	FWDX	Date Forwarded to Examiner	0
63	01/09/2008	FWDX	Date Forwarded to Examiner	0
61	01/09/2008	ABN9	Disposal for a RCE / CPA / R129	0
68	01/02/2008	IDSC	Information Disclosure Statement considered	0
67	01/02/2008	M844	Information Disclosure Statement (IDS) Filed	0
66	01/02/2008	M844	Information Disclosure Statement (IDS) Filed	0
58	01/02/2008	WIDS	Information Disclosure Statement (IDS) Filed	0
64	12/28/2007	AMSB	Amendment Submitted/Entered with Filing of CPA/RCE	0
62	12/28/2007	11/29/2007 RCEX	Request for Continued Examination (RCE)	29
60	12/28/2007	XT/G	Request for Extension of Time - Granted	57
59	12/28/2007	BRCE	Workflow - Request for RCE - Begin	0
57	08/29/2007	MCTFR	Mail Final Rejection (PTOL - 326)	0
56	08/28/2007	CTFR	Final Rejection	0
51	06/20/2007	FWDX	Date Forwarded to Examiner	0
55	06/18/2007	IDSC	Information Disclosure Statement considered	0
54	06/18/2007	IDSC	Information Disclosure Statement considered	0
53	06/18/2007	LET.	Miscellaneous Incoming Letter	0
52	06/18/2007	06/18/2007 EI0S.	Electronic Information Disclosure Statement	50
50	06/18/2007	A...	Response after Non-Final Action	0
49	06/18/2007	WIDS	Information Disclosure Statement (IDS) Filed	0
48	06/18/2007	WIDS	Information Disclosure Statement (IDS) Filed	0
47	03/19/2007	MCTNF	Mail Non-Final Rejection	0
46	03/16/2007	CTNF	Non-Final Rejection	0
38	01/29/2007	FWDX	Date Forwarded to Examiner	0
37	01/16/2007	ELC.	Response to Election / Restriction Filed	0
36	01/09/2007	MN574	Mail Notification of Terminal Disclaimer - Accepted	0
35	01/09/2007	MCTRS	Mail Restriction Requirement	0
34	01/04/2007	CTRS	Restriction/Election Requirement	0
33	11/27/2006	DOCK	Case Docketed to Examiner in GAU	0
43	11/08/2006	IDSC	Information Disclosure Statement considered	0
32.7	11/08/2006	M844	Information Disclosure Statement (IDS) Filed	0
32	11/08/2006	WIDS	Information Disclosure Statement (IDS) Filed	0
42	10/10/2006	IDSC	Information Disclosure Statement considered	0
31.7	10/10/2006	EI0S.	Electronic Information Disclosure Statement	0
31	10/10/2006	WIDS	Information Disclosure Statement (IDS) Filed	0
30	10/05/2006	DOCK	Case Docketed to Examiner in GAU	0
28	04/19/2006	PA..	Change in Power of Attorney (May Include Associate POA)	0
29	04/18/2006	C.AD	Correspondence Address Change	0
40	05/19/2005	IDSC	Information Disclosure Statement considered	0
27	05/19/2005	RCAP	Reference capture on IDS	0
26.7	05/19/2005	M844	Information Disclosure Statement (IDS) Filed	0
26	05/19/2005	WIDS	Information Disclosure Statement (IDS) Filed	0
44	01/28/2005	IDSC	Information Disclosure Statement considered	0
25	01/28/2005	RCAP	Reference capture on IDS	0
24.7	01/28/2005	M844	Information Disclosure Statement (IDS) Filed	0
24	01/28/2005	WIDS	Information Disclosure Statement (IDS) Filed	0
45	10/14/2004	IDSC	Information Disclosure Statement considered	0
23	10/14/2004	RCAP	Reference capture on IDS	0
22.7	10/14/2004	M844	Information Disclosure Statement (IDS) Filed	0
22	10/14/2004	WIDS	Information Disclosure Statement (IDS) Filed	0
21	10/12/2004	LET.	Miscellaneous Incoming Letter	0
17	05/05/2004	MN574	Notification of Terminal Disclaimer - Accepted	0
41	04/23/2004	IDSC	Information Disclosure Statement considered	0
20	04/23/2004	RQPR	Request for Foreign Priority (Priority Papers May Be Included)	0
19.7	04/23/2004	M844	Information Disclosure Statement (IDS) Filed	0
19	04/23/2004	WIDS	Information Disclosure Statement (IDS) Filed	0
18	04/23/2004	RCAP	Reference capture on IDS	0

16	04/23/2004	DIST	Terminal Disclaimer Filed	0
15	04/15/2004	TSSCOMP	IFW TSS Processing by Tech Center Complete	0
14	04/15/2004	DOCK	Case Docketed to Examiner in GAU	0
12	04/13/2004	TI1050	Transfer Inquiry to GAU	0
11	04/02/2004	CLSS	CASE CLASSIFIED BY OIPE	0
39	01/05/2004	IDSC	Information Disclosure Statement considered	0
13.7	01/05/2004	M844	Information Disclosure Statement (IDS) Filed	0
13	01/05/2004	WIDS	Information Disclosure Statement (IDS) Filed	0
5	11/12/2003	COMP	Application Is Now Complete	0
8	11/11/2003	WROIPE	Application Return from OIPE	0
7	11/11/2003	ROIPE	Application Return TO OIPE	0
6	11/11/2003	OIPE	Application Dispatched from OIPE	0
4	11/03/2003	CLSS	CASE CLASSIFIED BY OIPE	0
3	11/03/2003	L194	Cleared by OIPE CSR	0
2	10/01/2003	SCAN	IFW Scan & PACR Auto Security Review	0
10	08/18/2003	RCAP	Reference capture on IDS	0
1	08/18/2003	IEXX	Initial Exam Team nn	0
0.5	08/18/2003	EFILE	Filing date	0

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